

In reviewing the claims after receipt of the Office Action, it was noted that independent claim 7 claimed that the inner wrap was comprised of 50 to 85% by weight of wood fibers when the actual recitation in the specification and the examples defined the percentage of wood fibers as being from 55 to 85% in an inner wrap for a smoking article.

The Examiner has rejected claim 1-3, 7-9 and 11-13 under 35 USC §103(a) as being unpatentable over Kopsch et al in combination with Hampl, Jr. and Ross. Applicant respectfully traverses the Examiner on this ground of rejection.

The instant invention is directed to a smoking article having improved taste quality while simultaneously reducing spotting or staining. As set forth in both independent claims 1 and 7 the inner wrap of the smoking article comprises from 55 to 85% by weight of wood fibers and from 15 to 45% by weight of flax fibers. This unique mix of fibers and flax fibers, as clearly shown in the instant application, improves smoking characteristics in a smoking article. That is, with the use of the inner wrap in a smoking article wherein the inner wrap is a specific arrangement of wood fibers and flax fibers there is a decrease in irritation and improved smoke taste. Moreover, as shown in the instant application, the inner wraps of other related compositions do not solve the problem to which the instant invention is directed. For example, Example 3 shows that an inner wrap of 50% by weight of abaca and 50% by weight of

wood, results in a smoking article that is moderate to high in irritation and the smoke taste is poor.

To the contrary, Kopsch et al teaches a smoking article which is made of tobacco and/or other smokeable type materials which have antioxidative effects and/or naturally identical synthetic products thereof. As pointed out by the Examiner, the Kopsch et al product may include two layers of cigarette papers wherein the inner layer, or wrap, is made of wood pulp. However, nowhere does Kopsch et al teach or remotely suggest that the inner wrap is a wood fiber and flax mixture, much less a wood fiber-flax composition in the range as claimed in the instant application. Moreover, Kopsch et al is not directed to providing the solution to the problem that the instant invention is directed. That is, a wrapper for a smoking article and particularly an inner wrap for a smoking article which reduces spotting and still provides improved taste quality along with the reduction of spotting or staining which occurs during transportation or storage of smoking articles, such as cigarettes.

The Hampl, Jr. reference is directed to a method for controlling the permeability of a wrapping paper for smoking articles and as pointed out by the Examiner in column 1, lines 49-53, the use of longer fibers in the construction of a wrapping paper provides a paper with higher permeability. However, this has absolutely nothing to do with the instant claimed invention

which is directed to the reduction of spotting or staining of the smoking article while in storage, yet maintaining improved smoke taste. Moreover, nowhere does Hampl, Jr. teach or remotely suggest the unique combination of wood fibers and flax fibers in an inner wrap material as claimed in the instant application.

The Ross reference is directed to a wrap for filter plugs used in cigarette materials. This filter plug wrapper is taught as having a basis weight within a range of 10 to 40g/m². This reference is also not remotely related to the instant claimed invention. Specifically, the wrapper of Ross is for a filter plug for a cigarette article, not a wrapper for a tobacco rod and more particularly not for an inner wrap for a tobacco rod for a smoking article. As pointed out previously, the instant invention is directed to the reduction of spotting or staining which occurs during storage in the tobacco rod area of a cigarette as well as providing improved smoke taste. A filter plug wrapper as taught by Ross is not remotely related to solving this problem. Even further, Ross does not teach nor remotely suggest the very specific wood fiber-flax fiber composition for an inner wrap as claimed.

As pointed out previously, the instant invention is directed to the reduction of spotting or staining of a smoking article which occurs during storage or transportation of smoking articles, such as cigarettes, while simultaneously, maintaining or improving the taste quality of the smoking article. None of

the references, either singularly or in combination teach an inner wrap of wood fiber-flax fiber as claimed in the instant application. Moreover, none of the references are related to the problem of spotting or staining. The Examiner discusses the permeability of the paper of Hampl. Jr. and the highly porous paper of Kopsch et al. Ross teaches a filter wrapper having a basis weight within the range of the basis weight of the inner wrap used in the instant invention. That is, Ross is directed to a wrapper for a filter for a cigarette article and not the tobacco rod portion. As noted in the previous amendment, a long line of patent cases clearly hold that in a combination of references, at least one of the references must be related to the solving of the problem to which the invention in the patent application is directed. In re Deminski, 796 Fd2d 436, 442, 230 USPQ 313, 315 Fed.Cir. (1986). Applicant submits that none of these references are related to the problem of preventing spotting and staining in the storage or transportation of smoking articles while maintaining or improving smoke taste. This is the crux of the instant claimed invention. Thus, Applicant urges that the instant invention, as now claimed, is not taught nor remotely suggested by the combination of references cited by the Examiner and therefore Applicant respectfully requests that the Examiner withdraw this rejection.

The Examiner has rejected claims 4 and 5 under 35 USC §103(a) as being unpatentable over Kopsch et al in combination

with Hampl, Jr., Ross and additionally Drewett et al. Applicant respectfully traverses the Examiner on this ground of rejection.

Claims 4 and 5 are dependent claims depending from claim 1 claiming that the wood fiber may be pine (claim 4) or eucalyptus (claim 5).

As discussed previously, the combination of Kopsch et al with Hampl, Jr. and Ross does not teach nor remotely suggest the instant invention which is directed to a smoking article having a double wrap with a very specific inner wrap of flax fibers and wood fibers which reduces spotting and staining during storage and/or transportation. The Drewett et al reference is directed to a wrapper for a smoking article and teaches that pine or eucalyptus may be used as wood fibers is a cigarette wrapper. However, nowhere does Drewett et al teach or remotely suggest a wrap for a smoking article which includes flax fibers much less a flax fiber in combination with wood fibers. Nowhere does Drewett et al teach or remotely suggest a cigarette wrapper which reduces spotting or staining due to storage or transportation of smoking articles problem to which the instant invention is directed. Drewett et al does not correct the deficiencies of the Kopsch et al, Hampl, Jr. and Ross combination in teaching the inner wrap of the instant application. Thus, Applicant urges that the instant invention in accordance with claims 4 and 5 is not taught nor remotely suggested by the combination of references cited by the

Examiner. Therefore, Applicant respectfully requests that the Examiner withdraw this rejection.

The Examiner has rejected claims 6 and 10 under 35 USC §103(a) as being unpatentable over Kopsch et al in combination with Hampl, Jr. and Ross and additionally Schneider et al. Applicant respectfully traverses the Examiner on this ground of rejection.

Claims 6 and 10 are dependent claims of independent claims 1 and 7, claiming that the flax is selected from the group consisting of 50-90% bast flax fibers and 10-50% shive flax fibers.

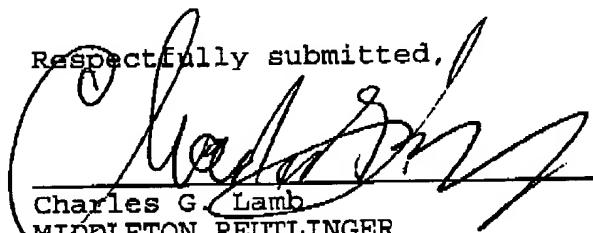
Schneider et al is directed to a cigarette paper and includes as a filler in the paper from 20 to 50% by weight of bast fibers of fine fibrillation which is incorporated to promote diffusion and particularly the diffusion of carbon monoxide. Nowhere does this reference teach or remotely suggest a wrapper for a cigarette much less an inner wrap for a cigarette which reduces spotting or staining of the smoking article during storage and/or transportation which is a problem the instant invention solves. Moreover, Schneider et al does not teach nor remotely suggest a cigarette wrapper having a wood fiber-flax fiber composition, specifically in the range as set forth in the claims of the instant application. The cigarette paper of Schneider et al is very specifically directed to the promotion of

the diffusion of carbon monoxide through a paper wrapper. Thus, Schneider et al in combination with Kopsch et al, Hampl, Jr. and Ross does not teach the unique blend of wood fibers and flax fibers that's claimed in the inner wrap of the instant invention no matter how you apply the references. The unique blend reduces spotting and staining is just not taught by this combination and Applicant respectfully requests that the Examiner withdraw this rejection of claims 6 and 10.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached is captioned "Versions of Markings to Show Changes Made".

Applicant urges that the instant application is now in condition for allowance. However, if the Examiner believes there are other unresolved issues in this case, Applicant's attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



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"Versions of Markings to Show Changes Made"

7. (Amended) An inner wrap for a smoking article comprising:

from [50] 55 to 85% by weight fibers of wood fibers and from 15 to 45% by weight of flax fibers.